

## Postal Rate Commission

## § 3001.62

counsel for the party filing the discovery requests whenever further explanation is needed, or a potential discovery dispute might be resolved by means of such communication.

(5) If, either on its own motion, or after having received a request for a hearing, the Commission concludes that there exist one or more genuine issues of material fact and that a hearing is needed, the Commission shall expedite the conduct of such record evidentiary hearings to meet both the need to respond promptly to changed circumstances in the market and the standards of 5 U.S.C. 556 and 557. The procedural schedule, subject to change as described in paragraph (e)(6) of this section, is as follows: Hearings on the Postal Service case will begin 35 days after the filing of an Express Mail Market Response rate request; parties may file evidence either in support of or in opposition to the Postal Service proposal 49 days after the filing; hearings on the parties' evidence will begin 56 days after the filing; briefs will be due 70 days after the filing; and reply briefs will be due 77 days after the filing.

(6) The presiding officer may adjust any of the schedule dates prescribed in (e)(5) of this section in the interests of fairness, or to assist in the development of an adequate evidentiary record. Requests for the opportunity to present evidence to rebut a submission by a participant other than the Postal Service should be filed within three working days of the receipt of that material into the evidentiary record, and should include a description of the evidence to be offered and the amount of time needed to prepare and present it. Requests for additional time will be reviewed with consideration as to whether the requesting participant has exercised due diligence, and whether the requesting participant has been unreasonably delayed from fully understanding the proposal.

[66 FR 54438, Oct. 29, 2001, as amended at 68 FR 12589, Mar. 17, 2003]

### § 3001.60 Express mail market response—rule for decision.

The Commission will issue a recommended decision in accordance with the policies of 39 U.S.C., and which it determines would be a reasonable re-

sponse to the change in the market for expedited delivery services. The purpose of §§ 3001.57 through 3001.60 is to allow for consideration of Express Mail Market Response rate requests within 90 days, consistent with the procedural due process rights of interested persons.

[66 FR 54438, Oct. 29, 2001]

## Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

### § 3001.61 Applicability.

The rules in this subpart govern the procedure with regard to requests of the Postal Service pursuant to section 3623 of the Act that the Commission submit a recommended decision on establishing or changing the mail classification schedule. The Rules of General Applicability in subpart A of this part are also applicable to proceedings on requests subject to this subpart. For requests of the Postal Service based on Negotiated Service Agreements, the rules applicable to Negotiated Service Agreements, subpart L, supersede the otherwise applicable rules of this subpart.

[69 FR 7593, Feb. 18, 2004]

### § 3001.62 Filing of formal requests.

Whenever the Postal Service determines to request that the Commission submit a recommended decision on establishing or changing the mail classification schedule, the Postal Service shall file with the Commission a formal request for a recommended decision. Such request shall be filed in accordance with the requirements of §§ 3001.9 to 3001.11 and § 3001.64. Within 5 days after the Postal Service has filed a formal request for a recommended decision in accordance with this subsection, the Secretary shall lodge a notice thereof with the Director of the Federal Register for publication in the FEDERAL REGISTER.

[38 FR 4330, Feb. 13, 1973, as amended at 51 FR 8827, Mar. 14, 1986]